



THE ATTORNEY GENERAL OF TEXAS

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AUSTIN, TEXAS 78711

December 27, 1972

Honorable Preston Smith
Governor of Texas
State Capitol Building
Austin, Texas 78711

Opinion No. M- 1283

Re: Several questions relating to the interpretation and application of the amendment to Article VIII, Section 1-b, of the Constitution of Texas, adopted at the general election in November 1972.

Dear Governor Smith:

Your request for an opinion asks the following questions:

"(1) In the event that twenty percent of the voters who voted in the last preceding election held by the political subdivision, petition the governing body of a political subdivision, and an election is called, would the majority vote then be binding on the governing body of that political subdivision?

"(2) What courses of action might be available to insure that a governing body acts in compliance with the mandate of the majority vote?

"(3) Does the amendment provide specifically or by implication a maximum amount for homestead exemptions provided by the local governing body?

"(4) Is legislative action necessary to implement the provisions of this amendment, or is it in full force and effect after January 1, 1973?"

Section 1-b of Article VIII of the Constitution of Texas provides:

"Section 1-b. (a) Three Thousand Dollars (\$3,000) of the assessed taxable value of all residence homesteads as now defined by law shall be exempt from all taxation for all State purposes.

"(b) From and after January 1, 1973, the governing body of any county, city, town, school district, or other political subdivision of the State may exempt by its own action not less than Three Thousand Dollars (\$3,000) of the assessed value of residence homesteads of persons sixty-five (65) years of age or older from all ad valorem taxes thereafter levied by the political subdivision. As an alternative, upon receipt of a petition signed by twenty percent (20%) of the voters who voted in the last preceding election held by the political subdivision, the governing body of the subdivision shall call an election to determine by majority vote whether an amount not less than Three Thousand Dollars (\$3,000) as provided in the petition, of the assessed value of residence homesteads of persons sixty-five (65) years of age or over shall be exempt from ad valorem taxes thereafter levied by the political subdivision. Where any ad valorem tax has theretofore been pledged for the payment of any debt, the taxing officers of the political subdivision shall have authority to continue to levy and collect the tax against the homestead property at the same rate as the tax so pledged until the debt is discharged, if the cessation of the levy would impair the obligation of the contract by which the debt was created." (Emphasis added.)

An analysis of the foregoing constitutional provision reveals that the governing body of the various political subdivisions of the State may authorize the exemption on its own action and the exemption is required when a majority vote determines that the exemption shall be allowed with the exception that the governing body has the authority to continue to levy and collect the tax if the tax is pledged for the payment of a debt. Your questions are accordingly answered as follows:

(1) In the event that twenty percent of the voters who voted in the last preceding election held by the political subdivision, petition the governing body of a political subdivision, and an election is called, the majority vote would then be binding on the governing body of that political subdivision.

(2) In the event of an affirmative vote to allow the exemption, such exemption becomes an automatic exemption provided

for in Section 1-b of Article VIII of the Constitution of Texas.

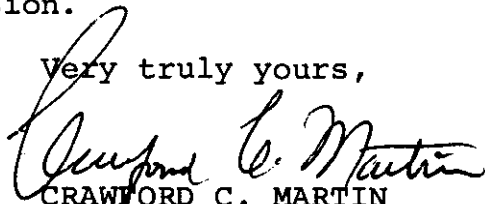
(3) No maximum amount for homestead exemptions is provided in Section 1-b of Article VIII of the Constitution of Texas; on the contrary, the exemption is for not less than \$3,000.00 of the assessed value of residential homesteads of persons sixty-five years of age or older.

(4) No legislation is necessary to implement the provisions of Section 1-b of Article VIII of the Constitution of Texas. Legislation could not add to or diminish the exemptions provided therein.

S U M M A R Y

Without enabling legislation the governing bodies of the various political subdivisions of the State, pursuant to the provisions of Section 1-b of Article VIII of the Constitution of Texas, may on their own action provide for homestead exemptions specified therein. A majority vote at an election to determine whether the exemption shall be authorized is however, binding on the governing body of that political subdivision.

Very truly yours,


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